

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED ECONOMIC  
DEVELOPMENT AUTHORITY BILL)

**A BILL FOR**

1 An Act relating to the workforce housing tax incentives  
2 program.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 15.352, subsection 10, Code 2018, is  
2 amended to read as follows:

3 10. "*Small city*" means any city or township located in this  
4 state, except those located wholly within one or more of the  
5 eleven most populous counties in the state, as determined by  
6 the most recent federal decennial census population estimates  
7 issued by the United States bureau of census. For the purposes  
8 of this part, a small city that is located in more than one  
9 county shall be considered to be located in the county having  
10 the greatest taxable base within the small city.

11 Sec. 2. Section 15.354, subsection 1, paragraph a, Code  
12 2018, is amended to read as follows:

13 a. A housing business seeking workforce housing tax  
14 incentives provided in section 15.355 shall make application to  
15 the authority in the manner prescribed by the authority. The  
16 authority may accept applications on a continuous basis during  
17 one or more annual application periods to be determined by the  
18 authority by rule.

19 Sec. 3. Section 15.354, subsection 2, Code 2018, is amended  
20 to read as follows:

21 2. ~~Registration.~~ Application review — tax incentive award.

22 a. All completed applications shall be reviewed and scored  
23 on a competitive basis by the authority pursuant to rules  
24 adopted by the authority.

25 a. b. ~~Upon review of the application, the authority~~  
26 ~~may register the housing project under the program. If the~~  
27 ~~authority registers the housing project, the authority shall~~  
28 ~~make a preliminary determination as to the amount of tax~~  
29 ~~incentives for which the housing project qualifies reviewing~~  
30 and scoring all applications received during an application  
31 period, the authority may make a tax incentive award to the  
32 housing project, which tax incentive award shall represent  
33 the maximum amount of tax incentives the housing project may  
34 qualify for under the program. In determining a tax incentive  
35 award, the authority shall not use an amount of project costs

1 that exceeds the amount included in the application of the  
2 housing business. Tax incentive awards shall be approved by  
3 the director of the authority.

4 ~~b.~~ c. ~~After registering the housing project making a~~  
5 ~~tax incentive award,~~ the authority shall notify the housing  
6 business of ~~successful registration under the program~~ its tax  
7 incentive award. The notification shall include the amount  
8 of tax incentives under section 15.355 for which the housing  
9 business has received ~~preliminary approval~~ an award and a  
10 statement that the ~~amount is a preliminary determination only~~  
11 housing business has no right to receive a tax incentive  
12 certificate or claim a tax incentive until all requirements  
13 of the program, including the agreement entered into pursuant  
14 to subsection 3, are satisfied. The amount of tax credits  
15 included on a tax credit certificate issued pursuant to this  
16 section, or a claim for refund of sales and use taxes, shall be  
17 contingent upon completion of the requirements in subsection 3.

18 d. An applicant that is unsuccessful in receiving a  
19 tax incentive award during an application period may make  
20 additional applications during subsequent application periods.  
21 Such applicants shall be required to submit a new application  
22 and shall be competitively reviewed and scored in the same  
23 manner as other applicants in that application period.

24 Sec. 4. Section 15.354, subsection 3, paragraphs a, c, and  
25 e, Code 2018, are amended to read as follows:

26 a. ~~Upon successful registration of~~ receipt of a tax  
27 incentive award by the housing project, the housing business  
28 shall enter into an agreement with the authority for the  
29 successful completion of all requirements of the program. The  
30 agreement shall identify the tax incentive award amount, the  
31 tax incentive award date, the project completion deadline, and  
32 the total costs of the housing project.

33 c. (1) A ~~Except as provided in subparagraph (2),~~ a housing  
34 business shall complete its housing project within three  
35 years from the date the housing project is registered by the

1 authority in the case of a housing project registered prior to  
2 July 1, 2018, or within three years from the date the housing  
3 project receives its tax incentive award from the authority in  
4 the case of all other housing projects.

5     (2) Notwithstanding subparagraph (1), the authority  
6 may for good cause within the discretion of the authority  
7 extend a housing project's completion deadline once by up  
8 to twelve months upon application by the housing business,  
9 which application shall be made prior to the expiration of  
10 the three-year completion deadline in subparagraph (1) in the  
11 manner and form prescribed by the authority.

12     e. (1) Upon review of the examination and verification  
13 of the amount of the qualifying new investment, the authority  
14 may issue a tax ~~credit~~ incentive certificate to the housing  
15 business, which tax incentive certificate shall contain, as  
16 applicable, a certificate stating the amount of sales and use  
17 tax refunds under section 15.355, subsection 2, the housing  
18 business may apply for, and a tax credit certificate stating  
19 the amount of workforce housing investment tax credits under  
20 section 15.355, subsection 3, the eligible housing business  
21 may claim. The amount of tax incentives for a housing project  
22 issued on a tax incentive certificate shall not exceed the  
23 amount of the tax incentive award.

24     (2) If upon review of the examination in subparagraph  
25 (1) the authority determines that a housing project has  
26 incurred project costs in excess of the amount submitted in the  
27 application made pursuant to subsection 1 and identified in the  
28 agreement, the authority shall do one of the following:

29     (a) If the project costs do not cause the housing project's  
30 average dwelling unit cost to exceed the applicable maximum  
31 amount authorized in section 15.353, subsection 3, the  
32 authority may consider the agreement fulfilled and may issue a  
33 tax ~~credit~~ incentive certificate.

34     (b) If the project costs cause the housing project's  
35 average dwelling unit cost to exceed the applicable maximum

1 amount authorized in section 15.353, subsection 3, but does not  
2 cause the average dwelling unit cost to exceed one hundred ten  
3 percent of such applicable maximum amount, the authority may  
4 consider the agreement fulfilled and may issue a tax ~~credit~~  
5 incentive certificate. In such case, the authority shall  
6 reduce the tax incentive award and the corresponding amount of  
7 tax incentives the eligible housing project may claim under  
8 section 15.355, subsections 2 and 3, by the same percentage  
9 that the housing project's average dwelling unit cost exceeds  
10 the applicable maximum amount under section 15.353, subsection  
11 3, and such tax incentive reduction shall be reflected on  
12 the tax ~~credit~~ incentive certificate. If the authority  
13 issues a certificate pursuant to this subparagraph division,  
14 the department of revenue shall accept the certificate  
15 notwithstanding that the housing project's average dwelling  
16 unit costs exceeds the maximum amount specified in section  
17 15.353, subsection 3.

18 (c) If the project costs cause the housing project's  
19 average dwelling unit cost to exceed one hundred ten percent  
20 of the applicable maximum amount authorized in section 15.353,  
21 subsection 3, the authority shall determine the eligible  
22 housing business to be in default under the agreement, shall  
23 revoke the tax incentive award, and shall not issue a tax  
24 ~~credit~~ incentive certificate.

25 Sec. 5. Section 15.354, subsection 4, Code 2018, is amended  
26 by striking the subsection and inserting in lieu thereof the  
27 following:

28 4. *Maximum tax incentives amount.*

29 a. (1) For fiscal years beginning on or after July 1, 2018,  
30 the authority shall not award in any fiscal year an amount of  
31 tax incentives for housing projects located in small cities, or  
32 for other housing projects, in excess of the amounts allocated  
33 for each category in section 15.119, subsection 2, paragraph  
34 "g". This paragraph applies to housing projects awarded tax  
35 incentives pursuant to subsection 2 on or after July 1, 2018,

1 and to housing projects registered prior to July 1, 2018, under  
2 section 15.354, subsection 2, Code 2018.

3 (2) Notwithstanding subparagraph (1), and section 15.119,  
4 subsection 2, paragraph "g", if the sum of the amount of tax  
5 incentives applied for in valid applications submitted in a  
6 given fiscal year beginning on or after July 1, 2018, for  
7 housing projects located in small cities, plus the amount  
8 of tax incentives eligible for issuance to housing projects  
9 located in small cities that were registered prior to July  
10 1, 2018, under section 15.254, subsection 2, Code 2018, does  
11 not exceed the amount reserved for housing projects located  
12 in small cities pursuant to section 15.119, subsection 2,  
13 paragraph "g", the authority may award the remaining amount of  
14 tax incentives reserved for housing projects located in small  
15 cities to other housing projects during that same fiscal year.

16 (3) Notwithstanding subparagraph (1), and section 15.119,  
17 subsection 2, paragraph "g", the authority may award during a  
18 fiscal year an aggregate amount of tax incentives to housing  
19 projects located in small cities that is less than the amount  
20 reserved for allocation to small cities under section 15.119,  
21 subsection 2, paragraph "g", provided the difference between  
22 the amount of the small city reservation and the aggregate  
23 amount actually awarded to small cities during that fiscal year  
24 is awarded during that same fiscal year to housing projects  
25 registered prior to July 1, 2017.

26 b. With regard to a housing project registered prior to  
27 July 1, 2018, a tax incentive shall be considered awarded for  
28 purposes of paragraph "a" when the authority enters into an  
29 agreement with the housing business for that housing project  
30 as provided under section 15.354, subsection 3, Code 2018.  
31 Notwithstanding any provision of law to the contrary, a housing  
32 business shall have no right to enter into an agreement with  
33 the authority for a housing project registered prior to July 1,  
34 2018, until the authority allocates an amount of tax incentives  
35 to the housing project and notifies the housing business

1 that the authority is prepared to execute the agreement  
2 and make a tax incentive award for the housing project. A  
3 housing business shall have no right to receive a tax credit  
4 certificate or claim a tax incentive for a housing project  
5 registered prior to July 1, 2018, until the housing business  
6 enters into an agreement with the authority.

7     *c.* In making tax incentive awards during any fiscal year  
8 in which there are housing projects registered prior to July  
9 1, 2018, which are eligible to receive tax incentives under  
10 the program, the authority shall give priority in making tax  
11 incentive awards to housing projects registered prior to July  
12 1, 2018. The authority shall create and maintain a wait list  
13 of housing projects registered prior to July 1, 2018, and such  
14 housing projects shall be placed on the wait list in the order  
15 the housing projects were registered.

16     *d.* The maximum aggregate amount of tax incentives that  
17 may be awarded and issued under section 15.355 to a housing  
18 business for a housing project shall not exceed one million  
19 dollars.

20     *e.* If a housing business qualifies for a higher amount  
21 of tax incentives under section 15.355 than is allowed by  
22 the limitation imposed in paragraph "*d*", the authority and  
23 the housing business may negotiate an apportionment of the  
24 reduction in tax incentives between the sales tax refund  
25 provided in section 15.355, subsection 2, and the workforce  
26 housing investment tax credits provided in section 15.355,  
27 subsection 3, provided the total aggregate amount of tax  
28 incentives after the apportioned reduction does not exceed the  
29 amount in paragraph "*d*".

30     Sec. 6. Section 15.354, subsection 5, Code 2018, is amended  
31 to read as follows:

32     5. *Termination and repayment.* The failure by a housing  
33 business in completing a housing project to comply with any  
34 requirement of this program or any of the terms and obligations  
35 of an agreement entered into pursuant to this section may

1 result in the revocation, reduction, termination, or rescission  
2 of the tax incentive award or the approved tax incentives and  
3 may subject the housing business to the repayment or recapture  
4 of tax incentives claimed under section 15.355. The repayment  
5 or recapture of tax incentives pursuant to this section shall  
6 be accomplished in the same manner as provided in section  
7 15.330, subsection 2.

8 Sec. 7. Section 15.355, subsection 2, Code 2018, is amended  
9 to read as follows:

10 2. A housing business may claim a refund of the sales and  
11 use taxes paid under chapter 423 that are directly related to  
12 a housing project and specified in the agreement. The refund  
13 available pursuant to this subsection shall be as provided in  
14 section 15.331A, excluding subsection 2, paragraph "c", of  
15 that section. For purposes of the program, the term "*project*  
16 *completion*", as used in section 15.331A, shall mean the date on  
17 which the authority notifies the department of revenue that all  
18 applicable requirements of an agreement entered into pursuant  
19 to section 15.354 are satisfied.

20 Sec. 8. Section 15.355, subsection 3, paragraph a,  
21 subparagraphs (1) and (2), Code 2018, are amended to read as  
22 follows:

23 (1) For a housing project not located in a small city, ten  
24 percent of the qualifying new investment of a housing project  
25 specified in the agreement.

26 (2) For a housing project located in a small city, twenty  
27 percent of the qualifying new investment of a housing project  
28 specified in the agreement.

29 Sec. 9. APPLICABILITY.

30 1. Except as provided in subsection 2, this Act applies to  
31 housing projects awarded tax incentives by the authority under  
32 the program on or after July 1, 2018, and housing projects  
33 registered by the authority under the program prior to July 1,  
34 2018, shall be governed by sections 15.352, 15.354, and 15.355,  
35 Code 2018.



2. The provisions of this Act amending section 15.354, subsection 3, paragraph "c", and section 15.354, subsection 4, apply to housing projects registered by the authority under the program prior to July 1, 2018, and to housing projects awarded tax incentives by the authority under the program on or after July 1, 2018.

7	EXPLANATION
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8           The inclusion of this explanation does not constitute agreement with  
9           the explanation's substance by the members of the general assembly.

10       This bill modifies the workforce housing tax incentives  
11 program.

12 BACKGROUND. The workforce housing tax incentive program  
13 (program) administered by the economic development authority  
14 (authority) provides tax incentives in the form of investment  
15 tax credits and sales and use tax refunds to housing businesses  
16 that complete certain housing projects in Iowa. In order  
17 to receive tax incentives, a housing business must apply to  
18 the authority and have its housing project registered by  
19 the authority, and then must enter into an agreement with  
20 the authority (tax incentive agreement) for the successful  
21 completion of all requirements of the program. If the housing  
22 project is completed and properly examined by a certified  
23 public accountant, and all other requirements of the tax  
24 incentive agreement and the program are satisfied, the  
25 authority may issue a tax credit certificate and the housing  
26 business may claim the tax incentives for which it qualifies  
27 under the program. The total tax incentives issued under  
28 the program per fiscal year cannot exceed \$20 million. Of  
29 that \$20 million annual cap, \$5 million must be reserved for  
30 tax incentives issued to housing projects located in small  
31 cities, as defined under the program. The program also limits  
32 the maximum amount of tax incentives that may be issued per  
33 housing project to \$1 million. The authority is required  
34 to issue tax incentives under the program on a first-come,  
35 first-served basis, and in the event the total tax incentives

1 for all registered housing projects completed in a fiscal year  
2 exceeds an annual cap, the authority is required to maintain a  
3 wait list of completed housing projects and give those housing  
4 projects priority for being issued tax incentives in subsequent  
5 fiscal years.

6 BILL CHANGES. The bill amends language relating to the  
7 acceptance of housing project applications by the authority.  
8 Current law states that the authority may accept applications  
9 on a continuous basis. The bill states that the authority may  
10 accept applications during one or more application periods, and  
11 provides that housing project applications shall be reviewed  
12 and scored on a competitive basis by the authority pursuant to  
13 rules adopted by the authority.

14 The bill removes registration of housing projects from the  
15 program, and provides that the authority may make tax incentive  
16 awards to housing projects. Tax incentive awards shall be  
17 subject to the approval of the director of the authority.  
18 Applicants who are unsuccessful in receiving a tax incentive  
19 award are authorized under the bill to make additional  
20 applications for that housing project during subsequent  
21 application periods. In determining the tax incentive award  
22 of a particular housing project, the authority shall not use  
23 an amount of housing project costs that exceeds the amount  
24 included in the housing project application.

25 The bill requires the authority to notify the housing  
26 business of its tax incentive award. The notification must  
27 include a statement that the housing business has no right to  
28 receive a tax incentive certificate or claim a tax incentive  
29 until all requirements of the program and the tax incentive  
30 agreement are satisfied.

31 The bill amends the requirements related to the tax  
32 incentive agreement entered into by the authority and a  
33 housing business to provide that such agreement shall identify  
34 the tax incentive award, the tax incentive award date, the  
35 project completion deadline, and the total costs of the housing

1 project.

2     The bill provides that, upon verification by the authority  
3 of the project costs and qualifying new investment as required  
4 by current law, the authority may issue a tax incentive  
5 certificate which contains the amount of sales and use tax  
6 refund the housing business may apply for and a tax credit  
7 certificate stating the amount of investment tax credits the  
8 housing business may claim. The amount of tax incentives  
9 issued on a tax incentive certificate shall not exceed the  
10 amount of the tax incentive award.

11     The bill also amends the definition of "small city" for  
12 purposes of the program. Under current law, the definition  
13 of "small city" includes any city or township not located  
14 within the 11 most populous counties in the state. When a  
15 city is located in more than one county, it is considered  
16 to be located in the county having the greatest taxable base  
17 within the city. The bill amends "small city" to include any  
18 city or township not located wholly within one or more of the  
19 11 most populous counties in the state. In other words, any  
20 city or township located in whole or in part in one of the 88  
21 least populated counties in Iowa will qualify as a small city  
22 under the program. The definition is also amended to provide  
23 that population is computed using the most recent population  
24 estimates issued by the United States census bureau, instead of  
25 the most recent federal decennial census.

26     The bill amends requirements relating to the termination  
27 and repayment of tax incentives for failure to comply with the  
28 requirements of the program to provide that such failures to  
29 comply with the program may also result in the revocation of  
30 the tax incentive award.

31     The bill amends language relating to the calculation of the  
32 amount of tax incentives for which a housing project qualifies.  
33 Under current law, the amount of the sales and use tax refunds  
34 is calculated using the taxes directly related to a housing  
35 project, and the amount of the investment tax credits is

1 calculated using a percentage of the qualifying new investment  
2 of the housing project. The bill provides that these amounts  
3 of taxes or qualifying new investment will only be used in the  
4 tax incentive calculation to the extent they were specified in  
5 the tax incentive agreement entered into by the authority and  
6 the housing business.

7 These program changes described above apply to housing  
8 projects that receive a tax incentive award on or after July 1,  
9 2018, and housing projects registered prior to July 1, 2018,  
10 shall be governed by current law.

11 The bill provides that the authority shall not award more  
12 than \$20 million in tax incentives each fiscal year beginning  
13 on or after July 1, 2018, and \$5 million of that total cap  
14 shall be reserved each fiscal year for tax incentive awards  
15 made to housing projects located in small cities. With regard  
16 to housing projects registered prior to July 1, 2018, the bill  
17 states that a tax incentive will be considered awarded when  
18 the authority enters into a tax incentive agreement for that  
19 housing project as provided under current law, and the bill  
20 states that a housing business has no right to enter into a  
21 tax incentive agreement for such a housing project until the  
22 authority allocates tax incentives to that housing project and  
23 notifies the housing business that the authority is prepared to  
24 execute a tax incentive agreement. The bill also provides that  
25 a housing business shall have no right to receive a tax credit  
26 certificate or claim a tax incentive for a housing project  
27 registered prior to July 1, 2018, until it enters into a tax  
28 incentive agreement with the authority.

29 The bill provides two exceptions to the \$5 million per year  
30 tax incentive reservation for housing projects in small cities.  
31 First, if the sum of the amount of tax incentive applications  
32 received for housing projects in small cities during a fiscal  
33 year, plus the amount of tax incentives eligible for issuance  
34 during that same fiscal year to housing projects in small  
35 cities registered prior to July 1, 2018, does not exceed \$5

1 million, the authority may award the difference to other  
2 housing projects during that same fiscal year. Second, the  
3 authority may award less than \$5 million of tax incentives to  
4 housing projects in small cities during a fiscal year if the  
5 difference between the \$5 million cap and the amount actually  
6 awarded to housing projects in small cities is awarded during  
7 the same fiscal year to housing projects registered prior to  
8 July 1, 2017.

9     The bill provides that the authority shall give priority  
10 in making tax incentive awards to housing projects registered  
11 prior to July 1, 2018, and shall create a wait list of housing  
12 projects registered prior to July 1, 2018, and place those  
13 housing projects on the list in the order the projects were  
14 registered.

15     The bill modifies the three-year project completion deadline  
16 in current law to specify that the deadline is measured from  
17 the registration date for housing projects registered prior to  
18 July 1, 2018, and from the date the housing project receives  
19 its tax incentive award for all other projects. The bill  
20 further modifies the project completion deadline by providing  
21 that the authority may for good cause extend this three-year  
22 deadline once by up to 12 months. To be eligible for such  
23 an extension, a housing business must apply to the authority  
24 before the expiration of the three-year project completion  
25 deadline.

26     These changes described above to the awarding and issuance  
27 of tax incentives and to the project completion deadline under  
28 the program apply to housing projects registered prior to July  
29 1, 2018, and to housing projects that receive a tax incentive  
30 award on or after July 1, 2018.